IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

OP.No. 13466 of 1999(S)

(AGAINST THE ORDER IN R.A. 199/(COCH)/1997 IN WTA 473/COCH/91OF INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH)

PETITIONER/APPLICANT/APPELLANT:

THE COMMISSIONER OF INCOME TAX,
COCHIN.

BY ADV. SRI.P.K.RAVINDRANATHA MENON (SR.)
ADV. SRI.GEORGE K. GEORGE, SC FOR IT

RESPONDENT/RESPONDENT/RESPONDENT:

SHRI P.N. SREENIVASA RAO,
DWARAKA HOTEL, COCHIN – 16.

BY

THIS ORIGINAL PETITION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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O.P. No. 13466 OF 1999

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Dated this the 26th July , 2007

J U D G M E N T

H.L. Dattu, C.J.:

C.M.P.No. 21712 of 1999: Delay of 43 days in filing the Original Petition is condoned.

O.P. No. 13466 OF 1999:

This Original Petition is filed under section 27(3) of the Wealth Tax Act, 1957 (hereinafter referred to as 'Act'). Aggrieved by the orders passed by the Deputy Commissioner of Income Tax (Appeals) Trivandrum dated 04.07.1991, the Revenue was before the Income Tax Appellate Tribunal, Cochin Bench, Cochin in W.T.A.Nos. 472 and 473 of 1991 in respect of the assessment years 1982-83 and 1983-84. The Tribunal had rejected the appeal.

2. The Revenue had filed a Reference Application under section 27(1) of the Act inter alia requesting the Tribunal that the statement of the case and the questions of law framed in the Reference Application may be referred to this Court for consideration and decision. The Tribunal, by its order dated 31.08.1998 has rejected the Reference Application. That is how , the Revenue is before us in this Original Petition filed under section 27(3) of the Act.

3. The Revenue has raised the following questions of law:

"1. Whether, on the facts and in the circumstances of the case, is not the order of the Tribunal very much after the death of the assessee invalid and non-est under law ?

2. Whether, on the facts and in the circumstances of the

case, the Tribunal is right in law and fact in holding that 1/3rd of the value of the property of Hotel Dwaraka is to be included in the net wealth of the assessee for the assessment year?"

4. In our view, the questions of law raised by the Revenue are no more res integra, in view of the decision of this Court in Commissioner of Wealth Tax vs. P.N. Srinivasa Rao *(Assessee's own case in respect of the assessment year 1981-82.)*

5. Since the issues raised in this Petition are already covered against the Revenue, the request of the Revenue, to consider and decide the case after securing the statement of the case and the questions of law framed by the Revenue from the Tribunal, need not be considered. In that view of the matter, the Original Petition requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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H.L. DATTU, C.J. &
K.T. SANKARAN, J.

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O.P. No. 13466 OF 1999

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Dated this the 26th July, 2007

J U D G M E N T